

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIROYUKI YAMASHITA, SHU YAMAGUCHI,
TERUO KUBOTA, KATSUHIKO KASAI,
SHIGERU TAMURA, and MASAKI TSUMADORI

Appeal No. 2001-1865
Application No.09/068,476

HEARD: MAY 21, 2002

Before GARRIS, PAWLIKOWSKI and NAGUMO, Administrative Patent Judges.

PAWLIKOWSKI, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 1, and 3 through 49. We note that the examiner has indicated that claims 4 and 40 contain allowable subject matter. (answer, pages 6-7). Hence, claims 1, 3, 5-39, and 41-49 remain on appeal.

The subject matter on appeal is represented by claims 1 and 32, set forth below:

1. A method for producing crystalline alkali metal silicate granules, comprising the following steps:

(1) preparing a mixture comprising:

(a) a crystalline alkali metal silicate containing at least SiO_2 and M_2O , wherein M stands for an alkali metal atom, and an $\text{SiO}_2/\text{M}_2\text{O}$ molar ratio is from 1.5 to 2.6, wherein a maximum pH value exceeds 11.0 at 20°C in a 0.1% by weight dispersion of the crystalline alkali metal silicate and wherein the crystalline alkali metal silicate has an ion exchange capacity of 100 CaCO_3 mg/g or more;

(b) a nonionic surfactant; and

(c) an acid precursor of an anionic surfactant capable of having lamellar orientation; and

(2) granulating by tumbling the mixture obtained in step (1) in an agitating mixer while increasing a bulk density at a temperature sufficiently high enough to neutralize said acid precursor, to hereby give crystalline alkali metal silicate granules having bulk density of from 0.6 to 1.2 g/ml, wherein an amount of component (a) in the mixture is 25% by weight or more.

32. A granular detergent composition for clothes washing having high bulk density, comprising the following components:

I) surfactant components comprising:

A) a polyoxyethylene alkyl ether; and

B) an anionic surfactant capable of having a lamellar orientation,

wherein a total amount of component A and component B is 80% by weight or more of the entire surfactant components, and wherein the weight ratio of component A to component B is $\text{A/B} = 20/1$ to $1/1$;

(II) C) crystalline alkali metal silicates having an $\text{SiO}_2/\text{M}_2\text{O}$ molar ratio of 1.5 to 2.6, wherein M stands for an alkali metal atom; and

(III)D) metal ion capturing agents other than component C having a calcium ion capturing ability of 200 CaCO_3 mg/g or more,

wherein component I, component II, and component III are present within one granule, and wherein a total amount of component I, component II and component III is from 70 to 100% by weight of the entire granular detergent composition, wherein the weight ratio of component II to component I is $\text{II/I} = 9/1$ to $9/11$, wherein the weight ratio of component II to component III is $\text{II/III} = 4/1$ to $1/15$, the granular detergent composition having a bulk density being from 0.6 to 1.2 g/ml, and wherein a gelled product carrying component A is contained in the granular detergent composition.

The references relied upon by the examiner as evidence of obviousness are:

Rieck	4,585,642	Apr. 29, 1986
Yamashita et al. (Yamashita)	5,736,501	Apr. 7, 1998

Claims 1, 3, 5-39, and 41-49 stand rejected under 35 U.S.C. § 103 as being unpatentable over Yamashita in view of Rieck.¹

On page 5 of the brief, appellants group the claims as follows:

Group I, directed to claims 1, 3, 6-31 and 47-40;

Group II, directed to claims 4 and 5;

Group III, directed to claims 32-39 and 42-46; and

Group IV, directed to claims 40 and 41.

¹ The rejection of claims 4 and 40 under 35 U.S.C. § 103 as being unpatentable over Yamashita in view of Baillely has been withdrawn. Also, the rejection of claims 32-39 and 41-46 under 35 U.S.C. § 103 as being unpatentable over Baillely in view of Rieck has been withdrawn (answer, page 3).

On pages 15 and 16 of the brief, appellants argue that Yamashita fails to disclose a method directed at producing ionic alkaline metal silicate granules such as set forth in Groups I and II of the appealed claims. On page 16 of the brief, appellants argue that the present invention produces ionic detergent granules such as claimed in Groups III and IV of the appealed claims. However, not all of the claims in these groupings have been individually argued by appellants with reasonable specificity in the brief and reply brief. We know that in order to obtain separate consideration by the Board of individual claims which are rejected together, an appellant must state that the claims do not stand or fall together and must produce arguments why claims subject to the same rejection are separately patentable. See 37 CFR § 1.192(c)(7) and (c)(8) (1998) as well as Ex parte Shier, 21 USPQ2d 1016, 1018-19 (Bd. Pat. App. & Int. 1991). In light of the appellants' failure to follow our regulation and precedent, we must decline to separately consider each of these claim groupings. Instead, as a practical matter, we must limit our assessment of the rejection before us to only those claims which the appellants have contested with reasonable specificity. See In re Nielson, 816 F.2d 1567, 1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987) and In re Wood, 582 F.2d 638, 642, 199 USPQ 137, 140 (CCPA 1978). Hence, we consider claims 1 and 32. It is appropriate to emphasize however that our formulation of the opinion which follows has included a full consideration of all the argument and evidence specifically advanced by the appellants on this appeal. Also, as noted supra, claims 4 and 40 have been

indicated by the examiner as containing allowable subject matter. Claim 4 is in Group II. Claim 40 is in Group IV.

OPINION

For the reasons stated by the examiner in the answer and for the reasons set forth below, we will sustain the aforementioned rejection before us.

Appellants' comments are directed mainly to three arguments. First, appellants argue that Yamashita fails to disclose or suggest using 25% or more of a crystalline alkali metal silicate. Second, appellants argue that Yamashita fails to disclose a method directed to producing ionic alkali metal silicate granules. (brief, pages 15 through 18, reply brief, pages 1 through 3). Third, appellants argue that the combination of Yamashita in view of Rieck fails to provide motivation to produce the crystalline alkali metal silicate granules of Groups I and II and the ionic detergent of Groups III and IV. (brief, pages 20 through 21).

With respect to argument 2, we find that none of the claims recite an ionic detergent. On page 16 of the brief, appellants seem to suggest that Yamashita produces non-ionic detergent granules because Yamashita fails to disclose the utilization of crystalline alkaline metal silicates in an amount of 25% by weight or more. However, appellants have not shown where the specification indicates that such an amount of crystalline alkali metal silicates (an amount of 25% by weight or more) is necessary for making ionic alkali metal silicate granules. Moreover, for the reasons discussed below, we find that

Yamashita would have suggested appellants' claimed amount of crystalline alkaline metal silicate.

With respect to argument 1, the examiner correctly points out that the reference of Yamashita is not limited to the disclosure set forth in Example 9. The examiner indicates that in column 5, lines 33-53, Yamashita teaches an amount of 40 to 90 parts by weight of at least one of the alkali builder and the alkali porous oil absorbing carrier, or 10 to 80 parts by weight of at least one of the alkali builder and the alkali porous oil absorbing carrier (answer, pages 9 and 10). We further note that claim 7 of Yamashita discloses that the alkali builder can be a crystalline alumino silicate. Hence, we agree with the examiner's view of Yamashita (that Yamashita teaches an amount of 25% by weight or more of a crystalline alkali metal silicate).

With respect to argument 3, we agree with the examiner's comments made on page 10 of the answer. Specifically, the examiner states that Rieck teaches that crystalline silicates, which behave as ion exchangers, and can therefore be used as water-softening agents, have a molar ratio of $\text{SiO}_2/\text{Na}_2\text{O}$ of 1.9:1 to 3.5:1 (see col. 1, lines 53-56). This disclosed molar ratio overlaps appellants' recited ratio of 1.5 to 2.6. Also, the teaching that such crystalline silicates are known to be used as water-softening agents provides sufficient motivation to combine Rieck with Yamashita.

In view of the above, it follows that we will sustain the 35 U.S.C. § 103 rejection advanced by the examiner on this appeal.

The decision of the examiner is affirmed.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED

BRADLEY R. GARRIS)	
Administrative Patent Judge)	
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BEVERLY PAWLIKOWSKI)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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